

CS FOR SENATE BILL NO. 120(HSS) am H

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH AND SOCIAL SERVICES COMMITTEE

Amended: 3/21/20

Offered: 3/9/20

Sponsor(s): SENATOR GIESSEL BY REQUEST

REPRESENTATIVE Drummond

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing an alternative to arrest procedure for persons suffering from an**
2 **acute behavioral health crisis; relating to emergency detention for mental health**
3 **evaluation; relating to administration of psychotropic medication to a patient without**
4 **the patient's informed consent; relating to licensure of crisis stabilization centers; and**
5 **providing for an effective date."**

6 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

7 * **Section 1.** AS 12.25 is amended by adding a new section to read:

8 **Sec. 12.25.031. Alternative to arrest.** (a) As an alternative to arrest, a peace
9 officer may, at the officer's discretion, deliver a person to a crisis stabilization center
10 or an evaluation facility or decline to arrest the person if
11 (1) the arresting officer believes in good faith that the person is
12 suffering from an acute behavioral health crisis; and
13 (2) the person voluntarily agrees to be taken to a crisis stabilization

center or an evaluation facility or to promptly seek outpatient mental health treatment.

(b) Notwithstanding (a) of this section, a peace officer may, as an alternative to arrest, take a person into emergency custody under AS 47.30.705 and deliver the person to a crisis stabilization center or an evaluation facility.

(c) Delivery of a person to a crisis stabilization center or an evaluation facility for examination under (a) of this section does not constitute an involuntary commitment under AS 47.30 or an arrest.

(d) Before a person delivered to a crisis stabilization center or an evaluation facility under (a) or (b) of this section is released to the community, a mental health professional shall make reasonable efforts to inform the arresting officer of the planned release if the officer has specifically requested notification and provided the officer's contact information to the crisis stabilization center or evaluation facility.

(e) A peace officer is not liable for civil damages arising from an act or omission done with reasonable care and in good faith under this section.

(f) An agreement to participate in outpatient treatment or to be delivered to a crisis stabilization center or an evaluation facility under (a) of this section

(1) may not require a person to stipulate to any facts regarding the alleged criminal activity as a prerequisite to participation in a mental health treatment alternative;

(2) is inadmissible in any criminal or civil proceeding; and

(3) does not create immunity from prosecution for the alleged criminal activity.

(g) If a person violates an agreement to be delivered to a crisis stabilization center or an evaluation facility or to seek outpatient treatment under (a) of this section,

(1) a mental health professional shall make reasonable efforts to inform the arresting officer of the person's decision to leave the crisis stabilization center or evaluation facility; and

(2) the original charges may be filed or referred to the prosecutor, as appropriate, and the matter may proceed as provided by law.

(h) Notwithstanding the other provisions of this section, charges may be filed or referred to the prosecutor, as appropriate, at any time in accordance with law.

(i) In this section,

(1) "crisis stabilization center" means a facility licensed under AS 47.32 that meets the definition of "crisis stabilization center" in AS 47.32.900;

(2) "evaluation facility" means an evaluation facility as defined in AS 47.30.915;

(3) "mental health professional" has the meaning given in AS 47.30.915.

* **Sec. 2.** AS 18.65.530(c) is amended to read:

(c) A peace officer is not required to make an arrest of a person under (a) of this section if the officer has received authorization [NOT TO ARREST] from a prosecuting attorney in the jurisdiction in which the offense under investigation arose

(1) not to arrest the person; or

(2) to deliver the person to a crisis stabilization center or an evaluation facility as provided in AS 12.25.031(b).

* **Sec. 3.** AS 18.65.530 is amended by adding a new subsection to read:

(g) A peace officer who delivers a person to a crisis stabilization center or evaluation facility under (c) of this section shall provide the peace officer's contact information to the crisis stabilization center or evaluation facility and, if the peace officer is notified under AS 12.25.031(d) of a planned release of the person, shall make reasonable efforts to inform the victim under (a)(1) and (2) of this section of the planned release.

* **Sec. 4.** AS 47.30.705(a) is amended to read:

(a) A peace officer, a psychiatrist or physician who is licensed to practice in this state or employed by the federal government, or a clinical psychologist licensed by the state Board of Psychologist and Psychological Associate Examiners who has probable cause to believe that a person is gravely disabled or is suffering from mental illness and is likely to cause serious harm to self or others of such immediate nature that considerations of safety do not allow initiation of involuntary commitment procedures set out in AS 47.30.700, may cause the person to be taken into custody and delivered to the nearest **crisis stabilization center as defined in AS 47.32.900 or the nearest** evaluation facility. A person taken into custody for emergency evaluation may

not be placed in a jail or other correctional facility except for protective custody purposes and only while awaiting transportation to a **crisis stabilization center or treatment facility**. However, emergency protective custody under this section may not include placement of a minor in a jail or secure facility. The peace officer or mental health professional shall complete an application for examination of the person in custody and be interviewed by a mental health professional at the **crisis stabilization center, evaluation facility, or treatment** facility.

* **Sec. 5.** AS 47.30.710(a) is amended to read:

(a) A respondent who is delivered under AS 47.30.700 - 47.30.705 to an evaluation facility, **except for delivery to a crisis stabilization center as defined in AS 47.32.900,** for emergency examination and treatment shall be examined and evaluated as to mental and physical condition by a mental health professional and by a physician within 24 hours after arrival at the facility. **A respondent who is delivered under AS 47.30.705 to a crisis stabilization center shall be examined by a mental health professional as defined in AS 47.30.915 within three hours after arriving at the center.**

* **Sec. 6.** AS 47.30.838(a) is amended to read:

(a) Except as provided in (c) and (d) of this section, an evaluation facility or designated treatment facility may administer psychotropic medication to a patient without the patient's informed consent, regardless of whether the patient is capable of giving informed consent, only if

(1) there is a crisis situation, or an impending crisis situation, that requires immediate use of the medication to preserve the life of, or prevent significant physical harm to, the patient or another person, as determined by a [LICENSED] physician, **physician assistant,** [OR A REGISTERED] or advanced practice registered nurse; the behavior or condition of the patient giving rise to a crisis under this paragraph and the staff's response to the behavior or condition must be documented in the patient's medical record; the documentation must include an explanation of alternative responses to the crisis that were considered or attempted by the staff and why those responses were not sufficient; and

(2) the medication is ordered by a [LICENSED] physician, **physician assistant, or advanced practice registered nurse;** the order

(A) may be written or oral and may be received by telephone, facsimile machine, or in person;

(B) may include an initial dosage and may authorize additional, as needed, doses; if additional, as needed, doses are authorized, the order must specify the medication, the quantity of each authorized dose, the method of administering the medication, the maximum frequency of administration, the specific conditions under which the medication may be given, and the maximum amount of medication that may be administered to the patient in a 24-hour period;

(C) is valid for only 24 hours and may be renewed by a physician, physician assistant, or advanced practice registered nurse for a total of 72 hours, including the initial 24 hours, only after a personal assessment of the patient's status and a determination that there is still a crisis situation as described in (1) of this subsection; upon renewal of an order under this subparagraph, the facts supporting the renewal shall be written into the patient's medical record.

* **Sec. 7.** AS 47.32.010(b) is amended to read:

(b) This chapter and regulations adopted under this chapter apply to the following entities:

- (1) ambulatory surgical centers;
- (2) assisted living homes;
- (3) child care facilities;
- (4) child placement agencies;
- (5) foster homes;
- (6) free-standing birth centers;
- (7) home health agencies;
- (8) hospices, or agencies providing hospice services or operating hospice programs;
- (9) hospitals;
- (10) intermediate care facilities for individuals with an intellectual disability or related condition;

- (11) maternity homes;
- (12) nursing facilities;
- (13) residential child care facilities;
- (14) residential psychiatric treatment centers;
- (15) runaway shelters;
- (16) rural health clinics;
- (17) crisis stabilization centers.**

* **Sec. 8.** AS 47.32.900 is amended by adding a new paragraph to read:

(22) "crisis stabilization center" means

(A) a facility, or a part or unit of a facility, that has been designed to evaluate, stabilize, and treat, on a short-term basis and without the use of hospitalization, individuals experiencing an acute behavioral health crisis;

(B) a 23-hour crisis stabilization center;

(C) a crisis residential center; or

(D) a subacute facility.

* **Sec. 9.** The uncoded law of the State of Alaska is amended by adding a new section to read:

TRANSITION: LICENSING. Notwithstanding AS 47.32.010(b), as amended by sec. 7 of this Act, the Department of Health and Social Services may, before a crisis stabilization center is licensed under AS 47.32.010(b), as amended by sec. 7 of this Act, issue a provisional license to or reimburse the crisis stabilization center under a waiver that is in effect before the effective date of sec. 7 of this Act.

* **Sec. 10.** The uncoded law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Department of Health and Social Services may adopt regulations necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the law implemented by the regulations.

* **Sec. 11.** Section 10 of this Act takes effect immediately under AS 01.10.070(c).